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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,765	11/24/2003	James Martucci	EIS-5799 DIV.1	4921

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EXAMINER
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MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/720,765

Applicant(s)

MARTUCCI ET AL.

Examiner

Robert W. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is response to the amendment filed 6/26/06. Claims 1-6 are presented for examination.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Pub. 2001/0044731 to Coffman et al. in view of U.S. Patent No. 6,988,075 to Hacker, for the same reasons given in the previous Office Action (dated 3/24/06). Further reasons appear below.

### ***Response to Arguments***

4. Applicant's arguments filed 6/26/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 6/26/06.

(A) In the remarks, Applicants argues in substance that (1) Coffman does not disclose a tag adapted to be worn by a patient that includes patient data; (2) Coffman does not disclose or even suggest that the handheld computing device performs a matching check and confirms the match between the prescribed medication data and the patient data; (3) Hacker does not teach a tag that contains patient information as recited by claims 1, 5 and 6; and (4) Hacker requires the

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server and a centralized infrastructure to performs the matching and checking of the patient information and not the handheld computing device.

(B) In response to Applicant's argument that, (1) Coffman does not disclose a tag adapted to be worn by a patient that includes patient data. The Examiner respectfully submits that Coffman reference teaches a system and method including enhanced technology allowing for real-time validation of a patient identifier such as a wristband that includes specific information such as name, age, allergy history and the like encoded into a bar code (see: paragraph 106). This clearly shows that a wristband worn by the patient including patient data as described by Coffman.

(C) In response to Applicant's argument that, (2) Coffman does not disclose or even suggest that the handheld computing device performs a matching check and confirms the match between the prescribed medication data and the patient data and (3) Hacker does not teach a tag that contains patient information as recited by claims 1, 5 and 6. The Examiner respectfully submits that the Coffman reference, and not Hacker, *per se*, that was relied upon for the specific teaching of a system and method including enhanced technology allowing for real-time validation of a patient identifier such as a wristband that includes specific information such as name, age, allergy history and the like encoded into a bar code (see: paragraph 106). Hacker was relied for primarily teaching of an electronic medical record system that includes a unique access identification means for a patient such as bracelet with a unique bar code for each patient (see: column 7, lines 43-50 and column 11, lines 45-49). Thus, the proper combination of the applied references would the incorporation of Hacker's bracelet with unique bar code for each patient within Coffman's real-time validation of a patient identifier such as a wristband.

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(D) In response to Applicant's argument that, (4) Hacker requires the server and a centralized infrastructure to performs the matching and checking of the patient information and not the handheld computing device. The Examiner respectfully submits that the Coffman is relied on for teaching a medical transaction carrier MTC (110, Fig. 1) which could be a personal digital assistant or lap-top (see: paragraph 16). In addition, Coffman teaches an enhanced technology that allowing for real-time validation of a patient identifier such as a wristband that includes specific information such as name, age, allergy history and the like encoded into a bar code (see: paragraph 106). Furthermore, Coffman teaches that the system validate each medication delivered to a patient to make sure it is identical to the medication that is indicated in the information contained within the MTC (see: paragraph 107). The Hacker reference is relied on teaching an electronic medical record system that includes a unique access identification means for a patient such as bracelet with a unique bar code for each patient (see: column 7, lines 43-50 and column 11, lines 45-49).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

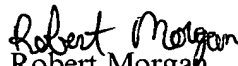
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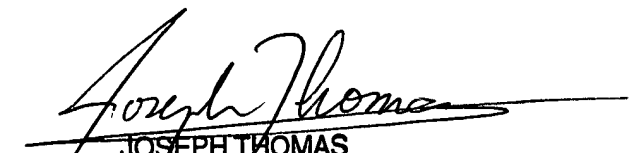
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert Morgan  
Patent Examiner  
Art Unit 3626

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER